

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE PORK ANTITRUST LITIGATION

Case No. 19-cv-1578 (JRT/HB)

Master Case No. 0:18-cv-01776-JRT-HB

This Document Relates To:

WINN-DIXIE STORES, INC., *et. al.*, v.
AGRI STATS, INC., *et al.*;
Case No. 19-cv-1578 (JRT/HB)

**THE WINN-DIXIE PLAINTIFFS' RESPONSE IN OPPOSITION TO
DEFENDANTS' JOINT MOTION TO DISMISS THE SECOND
AMENDED COMPLAINT OF WINN-DIXIE STORES AND
BI-LO HOLDINGS, LLC AND NOTICE OF JOINDER**

Now come Winn-Dixie Stores, Inc. and Bi-Lo Holdings, LLC (the “Winn-Dixie Plaintiffs” or “Plaintiffs”), by and through their attorneys, and for their Response in Opposition to the Defendants’ Motion to Dismiss the Second Amended Complaint of Winn-Dixie Stores And Bi-Lo Holdings, LLC and Notice of Joinder, the Plaintiffs respectfully state as follows:

1. On January 15, 2020, the Defendants filed their Joint Motion to Dismiss the Winn-Dixie Plaintiffs’ Second Amended Complaint (the “Defendants Joint Motion to Dismiss). *See* Dkt. No. 99.

2. In support of their Joint Motion to Dismiss, and in order to avoid burdening the court with duplicative briefing, the Defendants incorporated by reference the Defendants’ Joint Memorandum of Law in Support of Their Motion to Dismiss the Federal

Law Claims in the [Class] Plaintiffs' Amended Complaints filed in *In re Pork Antitrust Litigation*, 0:18-cv-01776-JRT-HB ("Defendants Memorandum in Support of Joint Motion to Dismiss"). See Defendants' Memorandum Of Law In Support Of Defendants' Joint Motion To Dismiss The Second Amended Complaint Of Winn-Dixie Stores, Inc., And Bi-Lo Holdings, LLC (Dkt. 100 at p. 2).

3. On February 21, 2020, the Class Plaintiffs filed Plaintiffs' Opposition To Defendants' Joint Motion To Dismiss The Direct Purchaser Plaintiffs' Complaint And The Federal Law Claims In The Indirect Purchaser Plaintiffs' Complaints For Failure To State A Claim Upon Which Relief May Be Granted ("Class Plaintiffs' Opposition to Defendants' Joint Motion to Dismiss"). See Dkt. No. 476 in *In Re Pork Antitrust Litigation*, case no. 18-cv-1776 (JRT/HB).

4. In accordance with the Court's Order of February 19, 2020 (Dkt. No.141) and to avoid burdening the Court with needless duplicative briefing responding to the Defendants' Joint Motion to Dismiss, the Winn-Dixie Plaintiffs join in and incorporate by reference the Class Plaintiffs' Opposition to Defendants' Joint Motion to Dismiss as if same were fully stated herein.

5. For completeness of the record, and as directed by the Court, the Winn-Dixie Plaintiffs have filed a copy of the Class Plaintiffs' Opposition to Defendants' Joint Motion to Dismiss that the Winn-Dixie Plaintiffs are joining in at Exhibit 1 to the Declaration of Patrick J. Ahern filed concurrently with this response (the "Ahern Declaration").

6. For the convenience of the Court and to alleviate the Court's burden in deciding the Defendants' Joint Motion to Dismiss, the Winn-Dixie Plaintiffs have prepared

and filed a chart that cross-references all citations to the Class Action Complaints referenced in the Class Plaintiffs' Opposition to Defendants' Joint Motion to Dismiss to the same or similar allegations contained in the Winn-Dixie Plaintiffs' Second Amended Complaint.¹ See chart attached to Exhibit 3 of the Ahern Declaration.

WHEREFORE, the Defendants Joint Motion to Dismiss the Winn-Dixie Plaintiffs' Second Amended Complaint should be denied for all the same reasons stated in the Class Plaintiffs' Opposition to Defendants' Joint Motion to Dismiss which the Winn-Dixie Plaintiffs have joined and incorporated herein by reference.

Respectfully submitted,

Dated: February 26, 2020

/s/ Patrick J. Ahern

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¹ The Winn-Dixie Plaintiffs do not have access to the sealed version of the Indirect Purchaser Plaintiffs' ("IPP") Second Amended Class Action Complaint, so the Winn-Dixie Plaintiffs' referenced comparison chart only includes the publicly available allegations from the IPP Complaint.